

1 RICK A YARNALL
2 Chapter 13 Bankruptcy Trustee
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11
12 **UNITED STATES BANKRUPTCY COURT**
13
14 **DISTRICT OF NEVADA**

15 In re:

16 DUKE NIUMEA TAGALOA, JR. and
17 TUPOU AMELIA TAGALOA,
18
19 Debtors.

20 BK-S-22-12883-MKN

21 Hearing Date: October 27, 2022
22 Hearing Time: 1:30 P.M.

23
24 **TRUSTEE'S OPPOSITION TO CONFIRMATION OF PLAN COMBINED WITH**
25 **TRUSTEE'S REQUEST FOR DISMISSAL**

26 Comes now, Chapter 13 Bankruptcy Trustee, Rick A. Yarnall, and hereby objects to
27 confirmation of the Chapter 13 Plan and recommends that confirmation be denied and the case
28 dismissed.

29 On August 13, 2022, the instant bankruptcy case was commenced. See Docket No. 1. The §
30 341(a) Meeting of Creditors was concluded on September 20, 2022. See Docket No. 24.
31 Confirmation of the Debtors' proposed plan is currently pending. The Debtors bear the burden of
32 proof on all elements of plan confirmation. See *In re Hill*, 268 B.R. 548, 552 (B.A.P. 9th Cir. 1994).
33 A proposed plan cannot be confirmed until the Court has ensured that all requirements of §1325
34 have been satisfied. See *United Student Aid Funds, Inc. v. Espinosa*, 130 S. Ct. 1367, 1380-81
35 (2010). Trustee objects to confirmation of the proposed plan because it does not satisfy the

1 confirmation requirements of § 1325.

2 Initially, Trustee opposes confirmation as he has not completed his investigation into the
3 Debtors' financial affairs. In order to complete this investigation, the Trustee requests the following:

4

- Copies of the Debtors' bank statements as follows:
 - o Chime #9724: Aug 1 thru Aug 13, 2022;
 - o Chime Savings: May 13 thru Aug 13, 2022;
- Signed Trustee's Conduit and Authorization forms (copies of which can be found on the Trustee's website www.lasvegas13.com as exhibits attached to the Trustee's Conduit Guidelines);
- Copies of Debtors' paystubs and/or proof of income, from all sources, through confirmation.

5

6 Further, Trustee makes the following objections to the Debtors' schedules and forms:

7

- Plan #1, Section 2.10 — The section is mathematically incorrect.

8

9 Debtors have a duty to cooperate with the trustee. Failure to do so can result in denial of
10 confirmation and the dismissal of the underlying case. Therefore, confirmation should be denied and
11 the case dismissed if Debtors fail to timely tender the above-mentioned documents to the Trustee.

12

13 Trustee further objects to confirmation as the proposed plan is not feasible because it fails to
14 provide for the priority claim of Utah State Tax Commission [Claim No. 5]. Because Debtors' plan
15 fails to comply with § 1325, confirmation should be denied.

16

17 Section 1325(a) requires the Court to withhold from confirming a plan until the plan
18 complies with the applicable provisions of Title 11. 11 U.S.C. § 1325(a). As such, Trustee requests
19 that this court withhold from confirming any proposed plan until the above objections have been
resolved.

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CONCLUSION

For the foregoing reasons, the Trustee requests that confirmation be DENIED. Trustee further requests that, that the underlying case be DISMISSED if the Debtors fail to timely resolve this objection to confirmation or become delinquent in plan payments.

DATED this 13th day of October, 2022.

/s/ Amanda Hunt
Amanda Hunt, Esq.
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701 Bridger Avenue, Suite 820
Las Vegas, Nevada 89101
Attorney for RICK A. YARNALL
Chapter 13 Bankruptcy Trustee

CERTIFICATE OF MAILING

I hereby certify that I am an employee of RICK A. YARNALL, Chapter 13 Bankruptcy Trustee; that I am over the age of 18 years; and that on the 13th day of October, 2022, I provided a copy of the Trustee's Opposition to Confirmation to each of the following by:

[X] a. ECF System:

- **MIGUEL A LOPEZ** mlopez@lopezblk.com, r43873@notify.bestcase.com
- **RICK A. YARNALL** ecfmail@LasVegas13.com, ecfimport@lasvegas13.com

b. United States mail, postage fully prepaid:

DUKE NIUMEA TAGALOA, JR.
TUPOU AMELIA TAGALOA
280 RIVERSIDE ROAD
APT. 11-H
MESQUITE, NV 89027

/s/ Cindy L. Coons

Cindy L. Coons, Employee of
RICK A. YARNALL
CHAPTER 13 BANKRUPTCY TRUSTEE